

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1939-PST-E TCEQ ID: RN102485737 CASE NO.: 35036**  
**RESPONDENT NAME: JE JALARAM INC. DBA JC'S FOOD MART**

Page 1 of 3

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 5801 John Stockbauer Drive, Victoria, Victoria County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789 TCEQ Regional Contact: Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106 Respondent: Mr. Jayesh Patel, Director, JE Jalaram Inc., 1100 East Inez Street, Beeville, Texas 78102 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 8, 2007</p> <p><b>Date of NOE Relating to this Case:</b> November 1, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed May 19, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on May 22, 2008. A Notice of Intent ("NOI") to Shutdown non-compliant USTs was mailed to the Respondent on January 9, 2009. According to the return receipt "green card," the Respondent received the NOI on January 12, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The TCEQ received a UST Registration and Self-Certification form from the Respondent on January 26, 2009. The Respondent's delivery certificate expires February 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</li> <li>Failed to have the required UST records maintained, readily accessible, and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</li> <li>Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition and failed to timely renew a previously</li> </ol>	<p><b>Total Assessed:</b> \$16,320</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$16,320</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all of the requirements set forth in this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately: <ol style="list-style-type: none"> <li>Cease dispensing fuel from the USTs;</li> <li>Cease receiving deliveries of regulated substances into the USTs;</li> <li>Padlock the dispensers;</li> <li>Empty the USTs of all regulated substances; and</li> <li>Temporarily remove the USTs from service.</li> </ol> </li> <li>Within 10 days, send its UST delivery certificate to the TCEQ.</li> <li>Within 15 days, submit a written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 2.</li> <li>Prior to resuming retail sales of gasoline, begin conducting effective manual or automatic inventory control procedures for all USTs.</li> <li>Prior to resuming retail sales of gasoline: <ol style="list-style-type: none"> <li>Begin maintaining all UST records;</li> <li>Implement a release detection method for all USTs at the Facility; and</li> <li>Submit an application for a new delivery certificate.</li> </ol> </li> <li>Within 10 days of resuming retail sales of gasoline, submit written certification to demonstrate compliance with Ordering Provision Nos. 4 and 5.</li> <li>The Respondent's USTs shall remain out of service until such time as the Respondent demonstrates it has corrected the violations.</li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>issued UST delivery certificate by submitting a properly completed UST Registration and Self-Certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE §§ 334.7(d)(3), 334.8(c)(4)(A)(vii), (c)(4)(B) and (c)(5)(B)(ii)].</p> <p>4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>5. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p>		<p>8. If the Respondent elects to permanently remove from service any USTs at the Facility, the Respondent shall permanently remove those USTs systems in accordance with 30 TEX. ADMIN. CODE § 334.55.</p>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

<b>DATES</b>	<b>Assigned</b>	12-Nov-2007	<b>Screening</b>	19-Nov-2007	<b>EPA Due</b>	
	<b>PCW</b>	10-Mar-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	JE Jalaram Inc. dba JC's Food Mart
<b>Reg. Ent. Ref. No.</b>	RN102485737
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	35036	<b>No. of Violations</b>	5	
<b>Docket No.</b>	2007-1939-PST-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Philip DeFrancesco	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$16,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	2% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$320
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<b>Notes</b>	Enhancement for one prior NOV with dissimilar violations.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
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Extraordinary		
Ordinary		
N/A	X	(mark with x)

<b>Notes</b>	The Respondent does not meet the good faith criteria.
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<b>Subtotal 6</b>	\$0
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<b>Total EB Amounts</b>	\$114	<i>*Capped at the Total EB \$ Amount</i>
<b>Approx. Cost of Compliance</b>	\$2,200	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16,320
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$16,320
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$16,320
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<b>DEFERRAL</b>	0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$16,320
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Screening Date 19-Nov-2007

Docket No. 2007-1939-PST-E

PCW

Respondent JE Jalaram Inc. dba JC's Food Mart

Policy Revision 2 (September 2002)

Case ID No. 35036

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102485737

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
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NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one prior NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 2%

<b>Screening Date</b> 19-Nov-2007		<b>Docket No.</b> 2007-1939-PST-E		<b>PCW</b>																	
<b>Respondent</b> JE Jalam Inc. dba JC's Food Mart		<i>Policy Revision 2 (September 2002)</i>																			
<b>Case ID No.</b> 35036		<i>PCW Revision November 6, 2007</i>																			
<b>Reg. Ent. Reference No.</b> RN102485737																					
<b>Media [Statute]</b> Petroleum Storage Tank																					
<b>Enf. Coordinator</b> Philip DeFrancesco																					
<b>Violation Number</b>	<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																				
<b>Rule Cite(s)</b>	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.50(a)(1)(A) and Tex. Water Code § 26.3475(c)(1)</div>																				
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 2px;">Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances.</div>																				
<b>Base Penalty</b>				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
<b>OR</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>
		<b>Harm</b>																			
	<b>Release</b>	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;"><b>Falsification</b></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Major	Moderate	Minor	<b>Falsification</b>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>								
	Major	Moderate	Minor																		
<b>Falsification</b>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
<b>Matrix Notes</b>	Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																				
<b>Adjustment</b>				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$7,500</div>																	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>																	
<b>Violation Events</b>																					
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>	<b>Number of violation days</b>																		
		<div style="border: 1px solid black; padding: 2px; text-align: center;">103</div>																			
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Violation Base Penalty</b> <div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,000</div>																		
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	x																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
Two quarterly events are recommended based on documentation of the violation during the August 8, 2007 investigation to the November 19, 2007 screening date.																					
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																			
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$75</div>	<b>Violation Final Penalty Total</b>																		
			<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,100</div>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,100</div>																	

**Economic Benefit Worksheet****Respondent** JE Jalaram Inc. dba JC's Food Mart**Case ID No.** 35036**Reg. Ent. Reference No.** RN102485737**Media** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	8-Aug-2007	8-Aug-2008	1.0	\$75	n/a	\$75

**Notes for DELAYED costs**

The estimated cost of monitoring all USTs for releases. The date required is the investigation date and the final date is the expected date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$75

<b>Screening Date</b> 19-Nov-2007		<b>Docket No.</b> 2007-1939-PST-E		<b>PCW</b>	
<b>Respondent</b> JE Jalam Inc. dba JC's Food Mart				<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35036				<i>PCW Revision November 6, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN102485737					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Philip DeFrancesco					
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>			
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 334.10(b)</div>			
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 5px;">Failed to have the required UST records maintained, readily accessible, and make them available for the inspection upon request by agency personnel.</div>			
<b>Base Penalty</b>					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual				
	Potential				<b>Percent</b> <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>

**>> Programmatic Matrix**

	<b>Falsification</b>				
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>		
	x				
	Percent	10%			

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

\$9,000

**Violation Events**

Number of Violation Events	1		103	Number of violation days
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<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

**Violation Base Penalty**

\$1,000

One single event is recommended based on documentation of the violation during the August 8, 2007 investigation.

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount	\$5	Violation Final Penalty Total	\$1,020
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,020



## Economic Benefit Worksheet

Respondent JE Jalaram Inc. dba JC's Food Mart

Case ID No. 35036

Reg. Ent. Reference No. RN102485737

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	8-Aug-2007	8-Jul-2008	0.9	\$5	n/a	\$5
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date and the final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

Screening Date 19-Nov-2007

Docket No. 2007-1939-PST-E

PCW

Respondent JE Jalaram Inc. dba JC's Food Mart

Policy Revision 2 (September 2002)

Case ID No. 35036

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102485737

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii), 334.8(c)(4)(B), and 334.8(c)(5)(B)(ii)

Violation Description

Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, registration was not updated to reflect the current ownership information and operational status of the USTs. Also, failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2005.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

103 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the August 8, 2007 investigation.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

## Economic Benefit Worksheet

Respondent JE Jalam Inc. dba JC's Food Mart

Case ID No. 35036

Reg. Ent. Reference No. RN102485737

Media Petroleum Storage Tank

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	31-May-2005	9-Aug-2007	2.2	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$11

<b>Screening Date</b> 19-Nov-2007		<b>Docket No.</b> 2007-1939-PST-E		<b>PCW</b>
<b>Respondent</b> JE Jalaram Inc. dba JC's Food Mart		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 35036		<i>PCW Revision November 6, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN102485737				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Philip DeFrancesco				
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px; text-align: center;">4</div>		
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3467(a)</div>		
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 5px;">Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, eight fuel deliveries were accepted without a delivery certificate.</div>		
<b>Base Penalty</b>				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$10,000</div>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>
				<b>Percent</b> <div style="border: 1px solid black; padding: 2px; text-align: right;">5%</div>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>OR</b>	<b>Falsification</b>			
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
				<b>Percent</b> <div style="border: 1px solid black; padding: 2px; text-align: right;">0%</div>
<b>Matrix Notes</b>		Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<b>Adjustment</b>				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$9,500</div>
				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$500</div>
<b>Violation Events</b>				
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">8</div>	Number of violation days	
		<div style="border: 1px solid black; padding: 2px; text-align: center;">8</div>		
<b>mark only one with an x</b>	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<b>Violation Base Penalty</b> <div style="border: 1px solid black; padding: 2px; text-align: right;">\$4,000</div>	
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	single event	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>		
Eight single events (one event per fuel drop) are recommended.				
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$0</div>	<b>Statutory Limit Test</b>	
			<b>Violation Final Penalty Total</b> <div style="border: 1px solid black; padding: 2px; text-align: right;">\$4,080</div>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<div style="border: 1px solid black; padding: 2px; text-align: right;">\$4,080</div>

## Economic Benefit Worksheet

Respondent JE Jalarum Inc. dba JC's Food Mart

Case ID No. 35036

Reg. Ent. Reference No. RN102485737

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 3.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 19-Nov-2007

Docket No. 2007-1939-PST-E

PCW

Respondent JE Jalaram Inc. dba JC's Food Mart

Policy Revision 2 (September 2002)

Case ID No. 35036

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102485737

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 334.48(c)

Violation Description

Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failing to conduct the UST system inventories could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 2

103 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended based on documentation of the violation during the August 8, 2007 investigation to the November 19, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$5,100

This violation Final Assessed Penalty (adjusted for limits) \$5,100

**Economic Benefit Worksheet****Respondent** JE Jalaram Inc. dba JC's Food Mart**Case ID No.** 35036**Reg. Ent. Reference No.** RN102485737**Media** Petroleum Storage Tank**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	8-Aug-2007	8-Jul-2008	0.9	\$23	n/a	\$23

**Notes for DELAYED costs**

Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the expected date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$500

**TOTAL**

\$23

# Compliance History

Customer/Respondent/Owner-Operator:	CN603233735	JE Jalaram Inc.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN102485737	JC'S FOOD MART	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	25733
Location:	5801 JOHN STOCKBAUER DR, VICTORIA, TX, 77904		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	December 03, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 03, 2002 to December 03, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Philip DeFrancesco		Phone:	(817) 588-5933

## Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? Yes
- If Yes, who is the current owner? Je Jalaram Inc.
- If Yes, who was/were the prior owner(s)? Evans Systems, Inc.  
Dayavan Kiran D and Patel Jayesh
- When did the change(s) in ownership occur? 05/26/2005  
08/21/2006

## Components (Multimedia) for the Site :

- Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
N/A
- Any criminal convictions of the state of Texas and the federal government.  
N/A
- Chronic excessive emissions events.  
N/A
- The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 10/24/2006 (515962)  
2 11/06/2007 (573228)
- Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 10/24/2006 (515962)  
Self Report? NO  
Citation: 30 TAC Chapter 334, SubChapter C 334.54(b) Classification: Moderate  
Description: Failure to cap, plug, lock, and/or otherwise secure all piping, pumps, manways, tank access points, and ancillary equipment to prevent access, tampering, or vandalism by unauthorized persons.
- Environmental audits.  
N/A
- Type of environmental management systems (EMSs).  
N/A
- Voluntary on-site compliance assessment dates.  
N/A
- Participation in a voluntary pollution reduction program.  
N/A
- Early compliance.  
N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>JE JALARAM, INC. DBA JC'S FOOD</b>	<b>§</b>	
<b>MART;</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>RN102485737</b>		
<b>DEFAULT AND SHUTDOWN ORDER</b>		

**DOCKET NO. 2007-1939-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, JE Jalaram, Inc. dba JC's Food Mart ("JE Jalaram"), to shutdown or remove from service the Underground Storage Tanks ("USTs") at the JC's Food Mart facility, located at 5801 John Stockbauer Drive, Victoria, Victoria County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

## **FINDINGS OF FACT**

1. JE Jalaram owns and operates a convenience store with retail sales of gasoline, located at 5801 John Stockbauer Drive, Victoria, Victoria County, Texas (the "Facility").
2. The USTs at the Facility contain regulated substances as defined in the Commission's rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. On August 8, 2007, an investigator from the TCEQ Corpus Christi Regional Office documented that JE Jalaram:
  - a. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances;

- b. Failed to have the required UST records maintained, readily accessible, and make them available for inspection upon request by agency personnel;
  - c. Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership information and the operational status of the USTs. Also, failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2005;
  - d. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, eight fuel deliveries were accepted without a delivery certificate; and
  - e. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.
4. By letter dated November 6, 2007, the TCEQ Corpus Christi Regional Office provided JE Jalaram with notice of the violations and the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, and corrosion protection regulations if the violations were not corrected.
5. JE Jalaram received notice of the violations on or about November 6, 2007.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JE Jalaram, Inc. dba JC's Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on May 19, 2008.
7. By letter dated May 19, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served JE Jalaram with notice of the EDPRP. According to the return receipt "green card," JE Jalaram received notice of the EDPRP on May 22, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since JE Jalaram received notice of the EDPRP, provided by the Executive Director. JE Jalaram failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

9. By letter dated January 9, 2009, TCEQ provided JE Jalaram with notice of TCEQ's intent to order the USTs at the Facility shut down and removed from service if JE Jalaram failed to correct the release detection violation within 30 days after JE Jalaram's receipt of the notice.
10. As of the date of entry of this Order, JE Jalaram has not corrected the violations noted during the August 8, 2007, investigation.
11. The USTs at the Facility do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50 and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

#### CONCLUSIONS OF LAW

1. JE Jalaram's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact Number 3.a., JE Jalaram violated 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), by failing to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances.
3. As evidenced by Finding of Fact Number 3.b., JE Jalaram violated 30 TEX. ADMIN. CODE § 334.10(b), by failing to have the required UST records maintained, readily accessible, and make them available for inspection upon request by agency personnel.
4. As evidenced by Finding of Fact Number 3.c., JE Jalaram violated 30 TEX. ADMIN. CODE §§ 334.7(d)(3), 334.8(c)(4)(A)(vii), 334.8(c)(4)(B) and 334.8(c)(5)(B)(ii), by failing to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership information and the operational status of the USTs. Also, filed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2005.
5. As evidenced by Finding of Fact Number 3.d., JE Jalaram violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, eight fuel deliveries were accepted without a delivery certificate.

6. As evidenced by Finding of Fact Number 3.e., JE Jalaram violated 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.
7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served JE Jalaram with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, JE Jalaram failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against JE Jalaram and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against JE Jalaram for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of sixteen thousand three hundred twenty dollars (\$16,320.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. As evidenced by Finding of Fact No. 10, JE Jalaram failed to correct documented violations of Commission requirements within 30 days after JE Jalaram received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
12. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, and/or corrosion protection for tanks and piping.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke JE Jalaram's UST delivery certificate if the Commission finds that good cause exists.

15. Good cause for revocation of JE Jalaram's UST delivery certificate exists as justified by Findings of Fact Nos. 6 through 8 and Conclusions of Law Nos. 7 through 8.
16. As evidenced by Finding of Fact Number 11, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

### ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, JE Jalaram shall take the following steps to shut down operations of all USTs at the Facility:
  - a. Cease dispensing fuel from the USTs;
  - b. Cease receiving deliveries of regulated substances into the USTs;
  - c. Padlock the dispensers;
  - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
  - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. JE Jalaram's UST delivery certificate is revoked immediately upon the effective date of this Order. JE Jalaram may submit an application for a new delivery certificate only after JE Jalaram has complied with all of the requirements set forth in these Ordering Provisions.
3. Within 10 days after the effective date of this Order, JE Jalaram shall send its UST delivery certificate to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

4. Within 15 days after the effective date of this Order, JE Jalaram shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. JE Jalaram shall submit the report to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Mr. Brad Genzer, Waste Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
NRC Building, Suite 1200  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412-5839

5. If JE Jalaram elects to permanently remove from service any USTs at the Facility, JE Jalaram shall permanently remove those USTs in accordance with 30 TEX. ADMIN. CODE § 334.55, and shall submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. JE Jalaram shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

6. JE Jalaram is assessed an administrative penalty in the amount of sixteen thousand three hundred twenty dollars (\$16,320.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and JE Jalaram's compliance with all the terms and conditions set forth in this Order completely resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: JE Jalaram, Inc. dba JC's Food Mart; Docket No. 2007-1939-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

7. JE Jalaram's USTs shall remain out of service as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as JE Jalaram demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.a through 3.e and Conclusion of Law Nos. 2 through 6 as listed herein.
8. Prior to resuming retail sales of gasoline, JE Jalaram shall begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48;
9. Prior to receiving deliveries of gasoline, JE Jalaram shall:
  - a. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10;
  - b. Implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50.
  - c. Submit an application for a new delivery certificate.
10. Within 10 days of resuming retail sales of gasoline, JE Jalaram shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 8. through 9. The written certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and, that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Mr. Brad Genzer, Waste Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
NRC Building, Suite 1200  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412-5839

11. Upon obtaining a new delivery certificate, JE Jalaram shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. All relief not expressly granted in this Order is denied.
13. The provisions of this Order shall apply to and be binding upon JE Jalaram, and JE Jalaram is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Facility.
14. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to JE Jalaram if the Executive Director determines that JE Jalaram is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
15. This Order shall terminate five years from its effective date or when JE Jalaram demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
16. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).



JE Jalaram, Inc. dba JC's Food Mart  
TCEQ Docket No. 2007-1939-PST-E  
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## **SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

## AFFIDAVIT OF BARHAM A. RICHARD

STATE OF TEXAS           §  
                                  §  
COUNTY OF TRAVIS      §

"My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

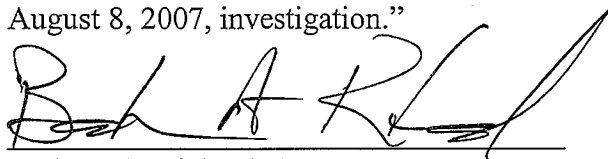
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JE Jalaram, Inc. dba JC's Food Mart" (the "EDPRP") was filed with the Office of the Chief Clerk on May 19, 2008.

The EDPRP was mailed to JE Jalaram at its last known address on May 19, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," JE Jalaram received notice of the EDPRP on May 22, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since JE Jalaram received notice of the EDPRP. JE Jalaram failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated January 9, 2009, I provided JE Jalaram with notice of the TCEQ's intent to order the USTs at the Facility shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of JE Jalaram's receipt of the letter.

As of the date of this affidavit, I am not aware of any evidence that indicates that JE Jalaram has corrected the violations noted during the August 8, 2007, investigation."

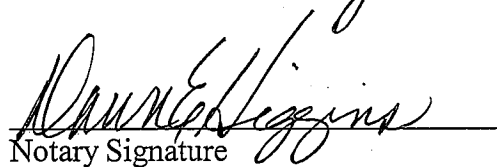
A handwritten signature in black ink, appearing to read "Barham A. Richard", written over a horizontal line.

Barham A. Richard, Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11<sup>th</sup> day of February A.D., 2009.

  
Notary Signature

